STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of EMMANUEL WILLIAMS and HENRY WILLIAMS, Minors.	UNPUBLISHED August 25, 2000
FAMILY INDEPENDENCE AGENCY, Petitioner-Appellee, v	No. 223654 Kalamazoo Circuit Court Family Division
LONETTA WARREN, Respondent-Appellant.	LC No. 92-0052 NA

Before: White, P.J., and Talbot and Danhof*, JJ.

PER CURIAM.

Respondent-Appellant appeals as of right the trial court's order terminating her parental rights to Emmanuel Williams (dob 11/18/97), and Henry [Leflore-Warren][1] Williams (dob 11/3/98), pursuant to MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i). We affirm.

We review the trial court's determination that a statutory ground for termination has been proven by clear and convincing evidence for clear error. *In re Trejo*, __ Mich __; 612 NW2d 407, (Docket No. 112528, issued 7/5/00), slip op at 17. The petitioner bears the burden of proving at least one ground for termination under MCL 712A.19b(3); MSA 27.3178(598.19b)(3). *In re Trejo*, slip op at 15. Subsection 19b(5) of the statute mandates termination once a petitioner establishes at least

[1] The termination hearing transcripts and petitioner's appellate brief list Henry's last name as Warren, but respondent's appellate brief lists it as Williams. Respondent testified at the July 9, 1999 continuation hearing that Henry had two last names, Leflore-Warren.

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

one statutory ground for termination, unless clear evidence exists, on the whole record, that termination is not in the child's best interests. *Id.*, slip op at 14, 27. Termination is not automatic; the trial court may consider evidence introduced by any party or may conclude, based on a review of the entire record, that termination is clearly not in the children's best interest. *Id.*, slip op at 13-14. We review the trial court's decision regarding the child's best interest, where appropriate, for clear error. *Id.*, slip op at 17.

Respondent's parental rights were terminated pursuant to MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i), which provides:

> (c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:
>
> (i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

The trial court did not clearly err in determining that there was clear and convincing evidence that the conditions that led to adjudication had not been rectified and there was no reasonable likelihood that they would be rectified within a reasonable time.

Although respondent had previously made progress, there was substantial evidence that during the three-months the court held the petition in abeyance, and since January 1999 generally, she had regressed, in terms of visitation with the children, in therapy, and in taking advantage of other services provided her. During the month of September 1999, respondent attended only 45% of the visitations. The trial court had made clear to respondent at the July 1999 hearing that it was holding the petition in abeyance for three months to give respondent another chance, and that no backsliding would be tolerated. We agree with petitioner, however, that missed visitation was not the sole basis for the court's ruling. Respondent had a lengthy history of failing to follow through with services provided, and in September 1999, her therapist had terminated her for missing a pre-arranged counseling session. The therapist testified that respondent was reverting to old coping skills, and had made only minimal progress. She also testified that she believed it would be difficult for respondent to parent her children in six months or at anytime.

Thus, the trial court did not clearly err in determining that petitioner had established, under subsection 19b(3)(c)(i), a statutory ground for termination by clear and convincing evidence. Nor did the trial court clearly err in concluding that no showing had been made that termination was not in the children's best interests.

Affirmed.

/s/ Helene N. White
/s/ Michael J. Talbot
/s/ Robert J. Danhof